

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ESPLANADE 2018 PARTNERS, LLC	*	NUMBER:
	*	
VERSUS	*	JUDGE:
	*	
MT. HAWLEY INSURANCE COMPANY	*	MAGISTRATE:
*****	*	

NOTICE OF REMOVAL

Defendant Mt. Hawley Insurance Company (“Mt. Hawley”) files this Notice of Removal of this action from the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, to the United States District Court for the Eastern District of Louisiana, the district in which the 24th Judicial District Court of Jefferson Parish is located. By filing this Notice of Removal, Mt. Hawley preserves, and does not waive, its right to raise any and all rights, defenses, exceptions, objections, and demands in both state and federal court. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Defendant respectfully shows this Court as follows:

PLAINTIFF’S ALLEGATIONS

1. On November 2, 2022, Esplanade 2018 Partners, LLC (“Plaintiff”) commenced an action against Mt. Hawley in the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, entitled *Esplanade 2018 Partners, LLC versus Mt. Hawley Insurance Company*, pending as Case No. 834-598, Div: “A” (the “State Court Case”).

2. Plaintiff’s Petition for Damages (“Petition”) contends that its property sustained damage covered under a policy of property insurance issued by Mt. Hawley. Petition ¶¶ 6-14. The Petition alleges that Mt. Hawley committed numerous violations of Louisiana law by purportedly refusing to pay for covered damages under the insurance policy. Plaintiff seeks to

recover at least \$4,681,844.14 in purportedly covered property damage, as well as statutory penalties and attorney's fees. *See* Petition at ¶ 40.

TIMELINESS OF REMOVAL

3. Defendant Mt. Hawley was served with Plaintiff's Petition for Damages ("Petition") in the State Court Case via the Louisiana Secretary of State on December 13, 2022. As such, removal is timely because thirty (30) days have not elapsed since Mt. Hawley first received the Petition, as required by 28 U.S.C. § 1446(b).

BASIS OF REMOVAL – DIVERSITY JURISDICTION

4. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 in that this is a civil action between citizens of different states where the matter in controversy exceeds \$75,000.

THE PARTIES AND DIVERSITY OF CITIZENSHIP

A. The amount in controversy exceeds the minimum jurisdictional requirements.

5. Plaintiff's Petition contends that its property sustained damage under a policy of property insurance issued by Mt. Hawley. Petition ¶¶ 6-14. The Petition alleges that Mt. Hawley committed numerous violations of Louisiana law by purportedly refusing to pay for covered damages under the insurance policy. *See id.* ¶¶ 55-72. Plaintiff seeks to recover \$4,681,844.14 in purportedly covered property damage, as well as statutory penalties and attorney's fees. Petition ¶ 40. As such, the required \$75,000 minimum amount in controversy is met in this case. 28 U.S.C. § 1332(a).

B. There is complete diversity between Plaintiff and Mt. Hawley.

6. Under the diversity statute, a corporation “shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business....” 28 U.S.C. § 1332(c)(1). The citizenship of a limited liability company is determined by the citizenship of each of its constituent members. As set forth below, there is complete diversity between Plaintiff and Defendant.

7. Plaintiff is a limited liability company organized under the laws of the State of Louisiana. Plaintiff’s members are Esplanade 2018 Manager, LLC, Provident Esplanade 2018, LP, and Capital One, LLC. The members of Esplanade 2018 Manager, LLC are PRA GP, Inc., a Texas corporation with its principal place of business in Texas, along with Leon J. Backes, Julian Hawes, Brent Wille, Kevin Cherry, and Lisa Bufkin, all of whom are individual residents and citizens of Texas. The partners of Provident Esplanade 2018, LP are PRA GP, Inc., a Texas corporation with its principal place of business in Texas, and LJB Equity, LP, a Texas limited partnership. The partners of LJB Equity, LP are PRA GP, Inc., a Texas corporation, along with Leon J. Backes, Julian Hawes, Kevin Cherry, and Lisa Bufkin, all of whom are individual residents and citizens of Texas. The members of Capital One, LLC are Paul F. Dastugue and Quentin Dastugue, both of whom are individual residents and citizens of Louisiana. Thus, for purposes of determining diversity jurisdiction, Plaintiff is a citizen of the States of Louisiana and Texas, but not the State of Illinois.

8. Defendant Mt. Hawley is a corporation organized under the laws of the State of Illinois, with its principal place of business in Illinois. Accordingly, Mt. Hawley is a citizen of the State of Illinois, and not a citizen of Louisiana or Texas, for purposes of determining diversity jurisdiction. 28 U.S.C. § 1332(c)(1).

9. For all of these reasons, complete diversity exists in this case and removal is proper because Plaintiff is a citizen of the States of Texas and Louisiana, and Mt. Hawley is a citizen of the State of Illinois.

REMOVAL PROCEDURE

10. A copy of this Notice of Removal and a notice of the filing thereof will be filed in the State Court Case. A copy of this Notice of Removal will also be served on Plaintiff.

11. A copy of this Notice of Removal is being served upon all known counsel of record in accordance with 28 U.S.C. § 1446(d).

12. In accordance with 28 U.S.C. § 1446(d), a copy of the Notice to the Clerk of Court for the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, which has been filed in that court, is attached hereto as Exhibit A.

13. The listing required pursuant to 28 U.S.C. § 1447(b) is filed herewith as Exhibit B.

14. In accordance with 28 U.S.C. § 1446(a), attached as Exhibit B-1 is a true and complete copy of the record in *Esplanade 2018 Partners, LLC versus Mt. Hawley Insurance Company*, Case No. 834-598, Div: "A," on the docket of the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana.

15. Mt. Hawley has filed contemporaneously herewith a civil cover sheet.

WHEREFORE, Defendant Mt. Hawley Insurance Company prays that the above-described action now pending in the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, be removed to this Court, and that the Court grant it such further relief to which it has shown itself entitled.

Respectfully submitted,

/s/ Matthew D. Fraser

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Matthew D. Fraser, #31730

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**ATTORNEYS FOR DEFENDANT MT.
HAWLEY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed on January 12, 2023 using the Court's CM/ECF system, which will send electronic notice of the filing to all counsel of record.

/s/ Matthew D. Fraser

Matthew D. Fraser